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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 781

**Introduced by Assembly Member John A. Pérez
(Principal coauthor: Assembly Member Smyth)**

February 17, 2011

An act to add Sections 26204, 34090.65, 56668.7, 57426, 61015, 61023, and 61102.5 to, and to add Article 7.5 (commencing with Section 65425) to Chapter 3 of Division 1 of Title 7 of, the Government Code, and to amend Sections 7284 and 7284.2 of the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 781, as amended, John A. Pérez. Local government: counties: unincorporated areas.

(1) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, sets forth the procedures for incorporations and changes of organizations of cities, including procedures for disincorporation.

This bill would authorize the board of supervisors of a county in which a city that will be disincorporated pursuant to statute is located to vote to continue that city if, after receipt of an audit conducted by

the State Auditor; the board of supervisors determines that the territory to be disincorporated is not expected to generate revenues sufficient to provide public services and facilities, maintain a reasonable reserve, and pay its obligations during the 5 years following disincorporation. The bill would require a city that is audited pursuant to these provisions to reimburse the State Auditor for the costs incurred to perform the audit, thereby imposing a state-mandated local program.

(1)

(2) The Community Services District Law authorizes the organization and powers of a community services district, as specified, to provide for, among other things, the supply of water for any beneficial uses, fire protection services, police and law enforcement services, the financing of an area planning commission, the financing of a municipal advisory commission, and the acquisition, construction, improvement, and maintenance of streets or roads.

This bill would create a community services district in the unincorporated area of a county if that unincorporated area of the county was previously a city that was disincorporated by statute and had, immediately prior to disincorporation, provided fire protection, water, telecommunications, gas, or electric utility services, or maintained streets or roads. The district would continue to provide those services within the territory in which the disincorporated city provided those services, and would be a successor in interest as to any contract entered into by the disincorporated city with respect to the provision of those services. The bill would, for a one-year period, limit the authority of the community services district to increase gas or electric utility rates within that territory.

The bill would direct that the community services district would become the employer of nonmanagerial employees who were employed by the disincorporated city to provide any of the services described above, in accordance with any existing memorandum of understanding or other labor relations agreement, and would protect those employees from discharge absent a showing of just cause for termination, except as specified.

The bill would specify that the board of supervisors for the county in which the disincorporated city was located would serve as the board of directors of the community services district.

The bill would require the district or the county, as specified, to become the custodian of records of the disincorporated city, and would prohibit any officer or employee of a city, or a consultant under contract

to a city, that is subject to being disincorporated from destroying those records or causing their destruction.

The bill would provide that legislative acts of the board of directors of the district are not subject to initiative or referendum, and the board of directors of the district is not subject to recall.

(2)

(3) The Planning and Zoning Law requires the legislative body of each city and county to adopt a comprehensive, long-term general plan for the physical development of the city or county, as specified.

This bill would provide that, as of the effective date of the disincorporation of a city pursuant to statute, the general plan of the disincorporated city constitutes the ~~general~~ *community* plan of the county for the territory of the disincorporated city, and that the zoning ordinances in effect immediately prior to the disincorporation of the city, together with any conditional use permits or any approved legal conforming uses, likewise apply, as specified. The bill would also provide that any use of land authorized under the general plan and zoning ordinances immediately preceding the effective date of the city's disincorporation would continue to be authorized for a period of not less than 10 years, as specified.

~~(3) Existing law, the Planning and Zoning Law, establishes a planning agency in each city and county with the powers necessary to provide for local planning in the city or county, as specified. Existing~~

(4) *Existing* law authorizes the board of supervisors of any county to establish, by resolution, a municipal advisory council for any unincorporated area in the county to advise the board on matters that relate to the unincorporated area, as specified.

This bill would require the board of supervisors of the county in which a city that has been disincorporated by statute was located, within 45 days following the effective date of the disincorporation, to establish a municipal advisory council ~~and an area planning commission~~ to operate within the territory of the disincorporated city, as specified. The bill would require the district to finance the operation of the municipal advisory council, ~~and authorize the district to finance the operation of the area planning commission.~~

By increasing the duties of local agencies, this bill would impose a state-mandated local program.

(4)

(5) Existing law authorizes the legislative body of any city or county to adopt an ordinance that, among other things, regulates the use of

buildings, structures, and land, and to regulate the location, height, bulk, number of stories, the size of buildings and structures, and the size and use of lots, yards, courts, and other open spaces.

This bill would require the board of supervisors in a county in which a city that has been disincorporated by statute was located, within 90 days of the effective date of the disincorporation, to form an expedited permit process for permits related to business, development, and health and safety that is comparable to the permit process previously in place for the territory of the disincorporated city.

By increasing the duties of local governments, this bill would impose a state-mandated local program.

~~(5)~~

(6) Existing law authorizes the board of supervisors of any county to license, for revenue and regulation and to fix the license tax upon every kind of lawful business transacted in the unincorporated area of the county, as specified.

This bill would require the board of supervisors of a county in which a city that has been disincorporated pursuant to statute was located to maintain, at the then-existing rates, any business license tax *or business license fee* of the disincorporated city that was in effect at the time of the disincorporation for a period of at least 5 years, as specified. *The bill would authorize the board of supervisors to levy any additional business license tax or business license fee on the territory of the disincorporated city during the 5-year period following the effective date of the disincorporation, if an audit conducted by a 3rd-party auditor finds that additional revenues are needed in order to maintain needed services to the territory of the disincorporated city or to make required payments toward debt incurred by the city prior to disincorporation.*

~~(6)~~

(7) Existing law authorizes the board of supervisors of any county to levy a utility user tax on the consumption of electricity, gas, water, sewer, telephone, telegraph, and cable television services in the unincorporated area of the county.

This bill would, upon the effective date of the disincorporation of a city pursuant to statute, exempt utility users within the territory of the disincorporated city from any existing county utility user tax, and would prohibit the board from levying a utility user tax on utility users within that territory for a period of 5 years following the effective date of the disincorporation. Following this 5-year period, the bill would prohibit the board from levying this tax unless the voters of the unincorporated

area of the county vote to ~~continue, increase, or decrease the tax on a uniform basis~~ *apply the utility user tax to utility users within the territory of the disincorporated city on the same basis as it is then applied throughout the unincorporated area of the county. The bill would also authorize the board of supervisors to levy a utility user tax during the 5-year period following the effective date of the disincorporation, if an audit conducted by a 3rd-party auditor finds that additional revenues are needed in order to maintain needed services to the territory of the disincorporated city or to make required payments toward debt incurred by the city prior to disincorporation.*

(7)

(8) Existing law governs the procedures and requirements for retention and destruction of specified records of a city.

This bill would prohibit any officer or employee of a city disincorporated by statute from destroying or authorizing the destruction of any record of the city.

(8)

(9) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, requires the local agency formation commission to oversee the terms and conditions of the disincorporation of a city pursuant to that act.

This bill would authorize the local agency formation commission to commence oversight of the terms and conditions of the disincorporation of a city pursuant to statute upon receipt of specified notice from the board of supervisors of the county in which a city disincorporated by statute is located. The bill ~~and~~ would authorize the commission, upon request by the legislative body of the city, any resident of the city, an owner of property within the city, or any affected local agency, to adopt additional terms and conditions relating to the disincorporation of the city or the creation of the community services district.

(9)

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(10)

(11) The bill would become operative only if AB 46 of the 2011–12 Regular Session is enacted and takes effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 26204 is added to the Government Code,
2 to read:

3 26204. On and after the effective date of the disincorporation
4 of a city pursuant to Section 56668.6, ~~the board of supervisors of~~
5 the affected county shall be the custodian of all records of the
6 disincorporated city except those records specified in paragraph
7 (5) of subdivision (c) of Section 61015. *The board of supervisors*
8 *of the affected county shall determine the county agency to be the*
9 *custodian of these records.*

10 SEC. 2. Section 34090.65 is added to the Government Code,
11 to read:

12 34090.65. Notwithstanding any other provision in this article
13 or any other provision of law, no officer or employee of a city, or
14 consultant under contract to such a city, that is subject to
15 disincorporation pursuant to Section 56668.6 shall destroy, or
16 authorize the destruction of, any record of the city.

17 SEC. 3. Section 56668.7 is added to the Government Code, to
18 read:

19 56668.7. (a) *Notwithstanding Section 56668.6, except as*
20 *otherwise provided in subdivision (e), the board of supervisors of*
21 *a county in which a city that is to be disincorporated pursuant to*
22 *Section 56668.6 is located may, within 90 days following the*
23 *effective date of Section 56668.6, by a majority vote of the board,*
24 *vote by resolution to continue in existence a city within that*
25 *county's boundaries that would otherwise be disincorporated*
26 *pursuant to Section 56668.6, if both of the following conditions*
27 *are met:*

28 (1) *The State Auditor has completed an audit pursuant to*
29 *subdivision (b) within 60 days of the effective date of this section.*

30 (2) *Upon a review, including, but not limited to, the audit*
31 *described in subdivision (b), the board of supervisors, in its sole*
32 *discretion, finds based on evidence on the record that the territory*

1 *to be disincorporated is not expected to generate revenues*
2 *sufficient to provide public services and facilities, maintain a*
3 *reasonable reserve, and pay its obligations during the five-year*
4 *period following disincorporation.*

5 *(b) The State Auditor shall, pursuant to Chapter 6.5*
6 *(commencing with Section 8543), conduct an audit of a city that*
7 *will be disincorporated pursuant to Section 56668.6. The audit*
8 *shall examine the city's ability to repay its debts or financial*
9 *obligations and deliver services to the territory of the city, and*
10 *shall take into consideration the city's ability to adjust its debt*
11 *and enhance its revenue streams.*

12 *(c) Within 30 days following receipt of the audit conducted*
13 *pursuant to subdivision (b), the board of supervisors shall review*
14 *the audit and may take any action pursuant to subdivision (a).*

15 *(d) If a board of supervisors votes to continue a city in existence*
16 *pursuant to subdivision (a), then Section 56668.6 shall not apply.*

17 *(e) Notwithstanding Section 56668.6, if the State Auditor has*
18 *not completed the audit required by subdivision (b) and made the*
19 *audit public within 60 days following the effective date of Section*
20 *56668.6, the date of disincorporation shall be extended to 181*
21 *days following the effective date of Section 56668.6. If the State*
22 *Auditor has not completed the audit and made the audit public*
23 *within 150 days following the effective date of Section 56668.6,*
24 *the board of supervisors may act pursuant to subdivision (a) on*
25 *any other evidence available on the record.*

26 *(f) A city that is subject to an audit described in subdivision (b)*
27 *shall enter into an interagency agreement with the State Auditor*
28 *for the purposes of reimbursing the State Auditor for the costs*
29 *incurred to perform that audit.*

30 ~~SEC. 3.~~

31 *SEC. 4. Section 57426 is added to the Government Code, to*
32 *read:*

33 *57426. Notwithstanding any other provision of law, once the*
34 *board of supervisors of a county notifies the commission that a*
35 *city within its jurisdiction will be disincorporated pursuant to*
36 *Section 56668.6, and that the board intends to allow the 90-day*
37 *period specified in that section to expire without action by the*
38 *board, the board and the commission may commence the actions*
39 *necessary to accomplish that disincorporation.*

1 ~~SEC. 4.~~

2 *SEC. 5.* Section 61015 is added to the Government Code, to
3 read:

4 61015. (a) (1) Notwithstanding any other provision of this
5 chapter, Chapter 1 (commencing with Section 61100) of Part 3,
6 or any other provision of law, if a city that was disincorporated
7 pursuant to Section 56668.6 provided fire protection, water,
8 telecommunications, gas, or electric utility services, or maintained
9 streets or roads, immediately prior to the effective date of the
10 disincorporation, upon the effective date of the disincorporation
11 a district is hereby created to serve as successor to the city with
12 respect to those services. The boundaries of the district shall be
13 coterminous with the boundaries of the disincorporated city.

14 (2) The district shall provide the services specified in paragraph
15 (1) within the same territory in which the disincorporated city
16 provided those services immediately prior to the effective date of
17 the disincorporation.

18 (b) (1) The local agency formation commission for the county
19 in which a city will be disincorporated pursuant to Section 56668.6
20 is located shall take all actions necessary to provide for the
21 formation of the district created pursuant to paragraph (1) of
22 subdivision (a), and to ensure that the district is formed and
23 becomes operative upon the effective date of the disincorporation
24 of the city.

25 (2) The local agency formation commission shall commence
26 the actions specified in this subdivision under any of the following
27 circumstances:

28 (A) Receipt of notice from the board of supervisors of the county
29 that the city has been disincorporated pursuant to Section 56668.6.

30 (B) Receipt of notice from the board of supervisors of the county
31 that the city will be disincorporated pursuant to Section 56668.6,
32 and that the board intends to allow the 90-day period specified in
33 that section to expire without action by the board.

34 (C) At any earlier time as the executive officer deems prudent.

35 (3) Notwithstanding any other provision of law, the local agency
36 formation commission may undertake the actions specified in this
37 subdivision prior to the effective date of disincorporation.

38 (4) Except as otherwise specified in this section, on and after
39 the date a district becomes operative pursuant to this section,
40 nothing in this section shall affect the authority of the local agency

1 formation commission to act with respect to the district pursuant
2 to the Cortese-Knox-Hertzberg Local Government Reorganization
3 Act of 2000 (Division 3 (commencing with Section 56000) of Title
4 5).

5 (5) Upon the establishment of the district pursuant to this
6 section, the local agency formation commission may submit to the
7 board of supervisors an invoice for the costs associated with the
8 establishment of the district. Upon receipt of an invoice for the
9 costs associated with the establishment of the district, the board
10 of supervisors shall submit the invoice to the county auditor for
11 validation, and, upon validation, the board of supervisors shall pay
12 the amount requested to the local agency formation commission
13 from the special fund established pursuant to Section 57407.

14 (6) The district shall be formed in accordance with all of the
15 following requirements:

16 (A) The board of supervisors of the county shall negotiate the
17 agreement required by subdivision (a) of Section 99 of the Revenue
18 and Taxation Code in good faith on behalf of all local agencies
19 affected by the disincorporation of the city and the creation of the
20 district pursuant to this section.

21 (B) Notwithstanding any other provision of law, *special* parcel
22 taxes that were previously imposed for the benefit of the
23 disincorporated city and were in effect immediately prior to the
24 effective date of the disincorporation shall continue, and the
25 proceeds of those taxes shall be remitted to the district for uses
26 consistent with the purposes for which those taxes were adopted.

27 (C) The district created pursuant to this section may use *special*
28 parcel tax proceeds and other available revenues to fund a higher
29 level of law enforcement services within its territory than is
30 otherwise funded by the county on and after the effective date of
31 the disincorporation.

32 (7) The district may continue any franchise fees that were
33 previously levied by the disincorporated city for electric utility
34 service and were in effect immediately prior to the effective date
35 of the disincorporation. All other fees, charges, or rates imposed
36 in connection with the services specified in paragraph (1) of
37 subdivision (a) that were in effect immediately prior to the effective
38 date of the disincorporation shall continue, subject to modification
39 by the district.

(c) All of the following provisions shall apply to the district created pursuant to this section:

(1) On and after the effective date of the disincorporation of the city pursuant to Section 56668.6, all of the following shall apply:

(A) The district shall be the employer of those persons who were employed by the disincorporated city as of January 1, 2011, in a nonmanagerial capacity and continued to be employed immediately prior to the effective date of the disincorporation in a nonmanagerial capacity, to provide any of the city services specified in paragraph (1) of subdivision (a).

(B) The district shall be bound by any memorandum of understanding or other labor relations agreement that was entered into by the city pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 and was in effect immediately prior to the effective date of the disincorporation unless and until the terms of that agreement are altered pursuant to that chapter. This paragraph shall apply only to the employees described in subparagraph (A).

(C) All employees of the district described in subparagraph (A) shall be protected from discharge absent a showing of just cause for termination unless and until a different rule is established under a memorandum of understanding or other labor relations agreement entered into pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 between the district and the employees, or between the district and designated representatives of the employees.

(D) Not later than 90 days following the creation of the district, the board of directors shall review the employment, and the classifications, compensation, and other terms of employment, of all persons who were employed in a managerial position on or after January 1, 2011, and remained employed by the disincorporated city immediately prior to the effective date of the disincorporation, and, based on that review, shall determine whether to continue the employment of each of those persons.

(E) Neither the disincorporation of the city pursuant to Section 56668.6; the succession of the district to assets, liabilities, rights, privileges, permits, authorizations, agreements, and contracts with respect to the provision of the services specified in paragraph (1) of subdivision (a); nor any other provision of the section shall be deemed to modify, abrogate, or otherwise affect any labor relations

1 agreement in effect immediately prior to the effective date of the
2 disincorporation if a party to that labor relations agreement was,
3 immediately prior to the disincorporation of the city, a party to a
4 contract with the disincorporated city for any of the services
5 specified in paragraph (1) of subdivision (a).

6 (2) Any contract, including, but not limited to, any labor,
7 professional services, or financing contract, that was in effect
8 immediately prior to the effective date of the disincorporation of
9 the city pursuant to Section 56668.6 and related to the provision
10 of any of the services specified in paragraph (1) of subdivision (a)
11 within the territory of, or on behalf of, a city disincorporated
12 pursuant to that section, shall be deemed, on and after the effective
13 date of the disincorporation, to refer to the district created pursuant
14 to this section rather than to the city.

15 (3) The district shall not enter into a contract with any municipal
16 corporation, municipal utility district, public utility district,
17 irrigation district, electric corporation, gas corporation, or water
18 corporation to provide water, telecommunications, gas, or electric
19 utility services if immediately prior to the effective date of the
20 disincorporation those services were provided by the
21 disincorporated city, unless the municipal advisory council
22 established pursuant to subdivision (d) of Section 65425 ~~consents~~
23 *to the contract is provided an opportunity to review and comment*
24 *on the proposed contract, in a public meeting of the municipal*
25 *advisory council, prior to the district's approval of the contract,*
26 *and the contract does not conflict with any obligation of the district*
27 *under subparagraph (B) of paragraph (1). The district shall provide*
28 *the proposed contract to the municipal advisory council at least*
29 *30 days prior to the date of the district's approval of the contract*
30 *and the municipal advisory council shall have 10 business days*
31 *following receipt of the proposed contract to review and provide*
32 *suggested revisions or other comments to the district for*
33 *consideration. The municipal advisory council's failure to review*
34 *or provide suggested revisions or other comments within the 10-day*
35 *period shall not limit the authority of the district to approve or*
36 *enter into the contract.*

37 (4) All assets, liabilities, rights, privileges, permits,
38 authorizations, agreements, and contracts of the disincorporated
39 city with respect to the provision of the services specified in
40 paragraph (1) of subdivision (a) shall vest in the district on the

1 effective date of the disincorporation of the city pursuant to Section
2 56668.6.

3 (5) On and after the effective date of the disincorporation of the
4 city pursuant to Section 56668.6, the district shall be the custodian
5 of all records of the disincorporated city that relate to the provision
6 of the services specified in paragraph (1) of subdivision (a).

7 (6) At its first meeting, the board of directors shall adopt all
8 necessary or appropriate ordinances of the city disincorporated
9 pursuant to Section 56668.6 pertaining to the provision of the
10 services specified in paragraph (1) of subdivision (a).

11 (7) (A) Except as required to satisfy bond covenants or other
12 contractual obligations that relate to the provision of gas or electric
13 utility services within the territory of the disincorporated city for
14 which the district is the successor obligor, the district shall not
15 increase gas or electric utility rates last established by the
16 disincorporated city for at least one year following the creation of
17 the district, unless all of the following conditions are satisfied:

18 (i) Within nine months of the creation of the district, the board
19 of directors has requested an independent auditor to complete a
20 financial and programmatic audit of the gas or electric utility, as
21 applicable, and the independent auditor has reported the findings
22 to the district.

23 (ii) Following the reporting of the audit conducted pursuant to
24 clause (i), the board of directors and the municipal advisory council
25 established pursuant to subdivision (d) of Section 65425 have each
26 held at least one public hearing on the results of the audit.

27 (iii) The board of directors makes a finding, based on substantial
28 evidence in the record before it, that a fiscal emergency exists
29 which requires an increase in gas or electric utility rates, as
30 applicable, during the first year following the creation of the
31 district.

32 (B) Subsequent to the one-year period described in subparagraph
33 (A), the board of directors may increase gas or electric utility rates,
34 provided the district has provided the rate increase proposal to the
35 municipal advisory council established pursuant to subdivision (d)
36 of Section 65425 for review at least 30 days prior to the effective
37 date of the increase and complied with applicable provisions of
38 Article XIII C of the California Constitution with respect to the
39 increase.

1 (C) This paragraph shall not be construed to limit the authority
2 of the district to decrease gas or electric utility rates.

3 ~~(8) The district may finance land use planning within the district~~
4 ~~conducted by the area planning commission established pursuant~~
5 ~~to subdivision (c) of Section 65425.~~

6 ~~(9)~~

7 (8) The district shall finance the operations of the municipal
8 advisory council established pursuant to subdivision (d) of Section
9 65425.

10 (9) *Notwithstanding Section 61046, ordinances of the district*
11 *may be passed only by the legislative act of the board of directors*
12 *of the district, the legislative acts of the board of directors of the*
13 *district shall not be subject to referendum, and the board of*
14 *directors of the district shall not be subject to recall.*

15 (d) As used in this section, the following terms have the
16 following meanings:

17 (1) “Disincorporated city” means a city that was disincorporated
18 pursuant to Section 56668.6.

19 (2) “Fire protection services” means those services described
20 in subdivision (d) of Section 61100.

21 (3) “Record” means any writing described in subdivision (e) of
22 Section 6252.

23 (4) “Street or road maintenance” means those services described
24 in subdivision (l) of Section 61100.

25 (5) “Telecommunications service” means those services
26 described in paragraph (53) of Section 153 of Title 47 of the United
27 States Code.

28 (6) “Water services” means those services described in
29 subdivision (a) of Section 61100.

30 (e) Prior to the effective date of the disincorporation of a city
31 pursuant to Section 56668.6, the legislative body of the city, a
32 resident of the city, an owner of property within the city, or an
33 affected local agency may file a request with the local agency
34 formation commission to adopt any additional terms and conditions
35 described in Section 56886. After giving notice pursuant to Chapter
36 4 (commencing with Section 56150) of Part 1 of Division 3, and
37 holding a public hearing, the commission may adopt any additional
38 terms and conditions described in Section 56886 if the commission
39 determines both of the following:

1 (1) The additional terms and conditions are useful and necessary
2 to the disincorporation of the city or the creation of the community
3 services district.

4 (2) The additional terms and conditions are consistent, and do
5 not conflict, with the provisions of this section.

6 ~~SEC. 5.~~

7 *SEC. 6.* Section 61023 is added to the Government Code, to
8 read:

9 61023. Notwithstanding Sections 61022 and 61027 or any
10 other provision of law, the board of supervisors of the county in
11 which a city that was disincorporated pursuant to Section 56668.6
12 is located shall serve as the board of directors of any district created
13 pursuant to Section 61015.

14 ~~SEC. 6.~~

15 *SEC. 7.* Section 61102.5 is added to the Government Code, to
16 read:

17 61102.5. Notwithstanding Sections 61102 and 61106, a district
18 created pursuant to Section 61015 may acquire, construct, own,
19 operate, control, or use facilities to supply its customers with gas
20 or electric utility service, purchase and distribute any of those
21 services, and may function as a scheduling coordinator and
22 participate in the California Independent System Operator market.
23 For these purposes, the board of directors may issue revenue bonds
24 pursuant to Section 61127 and other applicable law.

25 ~~SEC. 7.~~

26 *SEC. 8.* Article 7.5 (commencing with Section 65425) is added
27 to Chapter 3 of Division 1 of Title 7 of the Government Code, to
28 read:

29
30 Article 7.5. Local Planning for Certain Unincorporated Areas

31
32 65425. Upon the disincorporation of a city pursuant to Section
33 56668.6, all of the following shall occur:

34 (a) As of the effective date of the disincorporation, the general
35 plan of the disincorporated city that was in effect immediately
36 prior to the effective date of the disincorporation shall constitute
37 the ~~general~~ *community* plan of the county for the territory of the
38 disincorporated city; the zoning ordinances of the disincorporated
39 city that were in effect immediately prior to the effective date of
40 the disincorporation shall constitute the zoning ordinances of the

1 county for that territory; and any conditional use permit or legal
2 nonconforming use that was in place immediately prior to the
3 effective date of the disincorporation shall remain in force pursuant
4 to the ~~general~~ *community* plan and zoning ordinances. Any use of
5 land that was authorized under the general plan and zoning
6 ordinances immediately prior to the effective date of the
7 disincorporation shall continue to be authorized, consistent with
8 the requirements of that ~~general~~ *community* plan and those zoning
9 ordinances, for a period of 10 years from the effective date of the
10 disincorporation, any longer period required by the California
11 Constitution or United States Constitution, or any longer period
12 to the extent permitted by the general plan and zoning ordinances
13 of the county applicable to that territory following that 10-year
14 period.

15 (b) The ~~general~~ *community* plan, zoning ordinances, and permits
16 described in subdivision (a) shall not be amended for a period of
17 10 years following the effective date of the disincorporation
18 without the consent of the municipal advisory council established
19 pursuant to this section. This subdivision shall not apply to an
20 amendment required by law that is presented for hearing before
21 the ~~area county~~ planning commission ~~established pursuant to this~~
22 ~~section~~, after written notice to the municipal advisory council.

23 (c) ~~(1) The board of supervisors of the affected county shall,~~
24 ~~within 45 days following the effective date of the disincorporation,~~
25 ~~establish an area planning commission in accordance with Article~~
26 ~~1 (commencing with Section 65100) to advise the county as to~~
27 ~~land use planning for the territory of the community services~~
28 ~~district created pursuant to Section 61015.~~

29 ~~(2) (A) The area planning commission shall be comprised of~~
30 ~~five members appointed by the board of supervisors. One of the~~
31 ~~five members shall be appointed as a representative of the~~
32 ~~environmental justice community and shall be a resident of the~~
33 ~~affected county. The remaining four persons appointed shall be~~
34 ~~one of the following:~~

35 ~~(i) A resident of the community services district created pursuant~~
36 ~~to Section 61015.~~

37 ~~(ii) Both a resident of the affected county and an owner,~~
38 ~~shareholder, or employee of a business operating from a fixed~~
39 ~~location within the territory of the community services district.~~

~~(B) For purposes of this paragraph, the term “representative of the environmental justice community” means a person who is an advocate for “environmental justice” as that term is defined in subdivision (e) of Section 65040.12.~~

~~(3) The board of supervisors shall provide for the procedures of the area planning commission, and shall specify the terms of office and the standards of ethical conduct for the members of the commission.~~

~~(d)~~

(c) (1) The board of supervisors of the affected county shall, within 45 days following the effective date of the disincorporation, establish a municipal advisory council in accordance with Part 1 (commencing with Section 31010) of Division 4 of Title 3 to serve the territory of the community services district created pursuant to Section 61015. *The municipal advisory council shall advise the board as to planning for the territory of the community services district. The municipal advisory council may also advise the board on matters concerning services that are or may be provided to the area by the county or other local governmental agencies, including, but not limited to, advice on matters of public health, safety, welfare, and public works.*

(2) The municipal advisory council shall be comprised of five members appointed by the board of supervisors. ~~All of the~~ *One of the five members shall be appointed as a representative of the environmental justice community and shall be a resident of the affected county. The remaining four persons appointed shall be* one of the following:

(A) A resident of the community services district created pursuant to Section 61015.

(B) Both a resident of the affected county and an owner, shareholder, or employee of a business operating from a fixed location within the territory of the community services district.

(3) For purposes of this paragraph, the term “representative of the environmental justice community” means a person who is an advocate for “environmental justice” as that term is defined in subdivision (e) of Section 65040.12.

~~(3)~~

(4) The board of supervisors shall provide for the procedures of the council, and shall specify the terms of office and the standards of ethical conduct for the members of the council.

1 ~~(e) The board of supervisors is encouraged to appoint persons~~
2 ~~to the area planning commission and the municipal advisory~~
3 ~~council who do not serve simultaneously on both the area planning~~
4 ~~commission and the municipal advisory council.~~

5 ~~(f)~~

6 (d) Within 90 days of the effective date of the disincorporation
7 of the city, the board of supervisors of the affected county, in
8 consultation with the municipal advisory council established
9 pursuant to this section, shall adopt an expedited permit process
10 relating to business, development, and health and safety permits
11 for the territory of the disincorporated city that is comparable to
12 the permit process that existed in that city immediately preceding
13 the disincorporation.

14 ~~(g)~~

15 (e) Notwithstanding Chapter 1 (commencing with Section
16 33000) of Part 1 of Division 24 of the Health and Safety Code, or
17 any other provision of law, the board of supervisors of the affected
18 county shall serve as the legislative body of any redevelopment
19 agency that was formed with respect to all or part of the territory
20 of a city that was disincorporated pursuant to Section 56668.6 and
21 was in existence immediately prior to the effective date of the
22 disincorporation.

23 ~~(h)~~

24 (f) For purposes of this article, the term “affected county” means
25 the county in which a city that was disincorporated pursuant to
26 Section 56668.6 was located.

27 ~~SEC. 8.~~

28 SEC. 9. Section 7284 of the Revenue and Taxation Code is
29 amended to read:

30 7284. (a) The board of supervisors of any county may license,
31 for revenue and regulation, and fix the license tax upon, every kind
32 of lawful business transacted in the unincorporated area of the
33 county, including shows, exhibitions, and games. The board may
34 provide for collection of the license tax by suit or otherwise.

35 (b) Any board of supervisors that imposes a license tax pursuant
36 to subdivision (a) upon a business operating both within and outside
37 the board’s taxing jurisdiction shall levy the tax so that the measure
38 of tax fairly reflects that proportion of the taxed activity actually
39 carried on within the taxing jurisdiction.

(c) The board of supervisors of the county in which a city that was disincorporated pursuant to Section 56668.6 of the Government Code was located shall maintain, for a period of at least five years, any business license tax that was imposed by the disincorporated city and was in effect immediately prior to the effective date of the disincorporation, at the rates that were in effect on that date, including any methods then in effect that applied to adjust those rates. ~~The~~ *Except as otherwise provided by subdivision (d), the board of supervisors shall not levy any additional business license tax on or business license fee within the territory of the disincorporated city during that five-year period.*

(d) The board of supervisors of the county in which a city that was disincorporated pursuant to Section 56668.6 of the Government Code was located may levy an additional business license tax or business license fee within the territory of the disincorporated city during the five-year period following the effective date of the disincorporation, if an audit conducted by a third-party auditor finds that additional revenues are needed in order for the county to maintain needed services to the territory of the disincorporated city or to make required payments toward debt incurred by the city prior to disincorporation.

~~SEC. 9.~~

SEC. 10. Section 7284.2 of the Revenue and Taxation Code is amended to read:

7284.2. (a) (1) The board of supervisors of any county may levy a utility user tax on the consumption of electricity, gas, water, sewer, telephone, telegraph, and cable television services in the unincorporated area of the county.

(2) Notwithstanding paragraph (1), upon the effective date of the disincorporation of a city pursuant to Section 56668.6 of the Government Code, no existing county utility user tax shall apply to utility users within the territory of that disincorporated city. ~~The~~ *Except as otherwise provided by paragraph (3), the board of supervisors of the affected county shall not levy a utility user tax on utility users within the territory of that disincorporated city for a period of five years following the effective date of the disincorporation. Following the expiration of the five-year period, the board of supervisors shall not levy a utility user tax on utility users within the territory of the disincorporated city unless the voters of the unincorporated area of the county, including the voters*

1 located within the territory of the disincorporated city, vote to
2 ~~continue, increase, or decrease the~~ *apply a utility user tax on a*
3 ~~uniform basis to utility users within the territory of the~~
4 ~~disincorporated city on the same basis as it is then applied~~
5 throughout the unincorporated area of the county in accordance
6 with Article XIII C of the California Constitution.

7 *Except as specifically provided by this paragraph, this paragraph*
8 *shall not limit the right of the board of supervisors to place on the*
9 *ballot any proposal to increase the utility user tax throughout the*
10 *unincorporated area of the county during or after the five-year*
11 *period following the effective date of the disincorporation pursuant*
12 *to Section 56668.6 of the Government Code.*

13 (3) *The board of supervisors of the county in which a city that*
14 *was disincorporated pursuant to Section 56668.6 of the*
15 *Government Code was located may, in accordance with Article*
16 *XIII C of the California Constitution, impose a utility user tax on*
17 *utility users within the territory of the disincorporated city during*
18 *the five-year period following the effective date of the*
19 *disincorporation, if an audit conducted by a third-party auditor*
20 *finds that additional revenues are needed in order for the county*
21 *to maintain needed services to the territory of the disincorporated*
22 *city or to make required payments toward debt incurred by the*
23 *city prior to disincorporation.*

24 (b) For purposes of this section, “gas” shall not be construed as
25 referring to the consumption of compressed natural gas dispensed
26 by a gas compressor, within a local jurisdiction, that is separately
27 metered and is dedicated to providing compressed natural gas as
28 a motor vehicle fuel for use by the local agency or public transit
29 operator.

30 (c) For purposes of this section, “local jurisdiction” means any
31 city, county, city and county, including any chartered city, county,
32 or city and county, district, or public or municipal corporation.

33 (d) For purposes of this section “public transit operator” means
34 a local or regional transit agency or a joint powers agency operating
35 bus transportation service as defined pursuant to Article 1
36 (commencing with Section 99200) of Chapter 4 of Part 11 of
37 Division 10 of the Public Utilities Code.

38 ~~SEC. 10.~~

39 *SEC. 11.* No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 a local agency or school district has the authority to levy service
2 charges, fees, or assessments sufficient to pay for the program or
3 level of service mandated by this act, within the meaning of Section
4 17556 of the Government Code.

5 However, if the Commission on State Mandates determines that
6 this act contains other costs mandated by the state, reimbursement
7 to local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.

10 ~~SEC. 11.~~

11 *SEC. 12.* This act shall become operative only if Assembly
12 Bill 46 of the 2011–12 Regular Session of the Legislature is
13 enacted and takes effect.

14

15

16 **CORRECTIONS:**

17 **Text—Pages 14 and 15.**

18